IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 3340 of 2007(V)

OS.554/2005 of ADDL.MUNSIFF COURT,KOCHI
.....

PETITIONER:

PETER, S/O LATE MATHEW,
AZHEEKKAL HOUSE, KANNAMALI, KUMBALANGHI VILLAGE,
COCHIN TALUK.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENTS:
----

1. **SREEDHARA SHENOI,**
S/O.LATE GOPALA SHENOI, ELANJIKKAL HOUSE,
CHERIYAKADAVU DESOM, PALLURUTHY VILLAGE,
COCHIN TALUK.

2. **MATHEW @ MATHACHAN,**
S/O PETER, AZHEEKKAL HOUSE, KANNAMALI,
KUMBALANGHI VILLAGE, COCHIN TALUK.

3. **MARY, W/O LATE JOSE,**
NIRAKKASSERRIL HOUSE, KATTIPPARAMBY DESOM,
PALLURUTHY VILLAGE, COCHIN TALUK.

4. **BONY JOSEPH S/O LATE JOSE,**
NIRAKKASSERRIL HOUSE, KATTIPPARAMBY DSOM,
PALLURUTHY VILLAGE, COCHIN TALUK.

5. **BOBAN JOSEPH S/O. LATE JOSE,**
NIRAKKASSERRIL HOUSE, KATTIPPARAMBY DESOM,
PALLURUTHY VILLAGE, COCHIN TALUK.

6. **RAJU JOSEPH, S/O. LATE JOSE,**
NIRAKKASSERRIL HOUSE, KATTIPARAMBY DESOM,
PALLURUTHY VILLAGE, COCHIN TALUK.

7. BERLI JOSEPH S/O. LATE JOSE,
NIRAKKASSERRIL HOUSE, KATTIPPARAMBY DESOM,
PALLURUTHY VILLAGE, COCHIN TALUK.

8. MATHEW JOSEPH, S/O. LATE JOSE,
NIRAKKASSERRIL HOUSE, KATTIPPARAMBY DESOM,
PALLURUTHY VILLAGE, COCHIN TALUK.

9. BAIJU JOSEPH, S/O.LAE JOSE,
NIRAKKASSERRIL HOUSE, KATTIPPARAMBY DESOM,
PALLURUTHY VILLAGE, COCHIN TALUK.

R3 TO R9 BY ADV. SRI.DILIP MOHAN
SRI.ALEXANDER GEORGE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 TRUE COPY OF THE PLAINT.

EXT.P2 TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONER.

EXT.P3 TRUE COPY OF I.A.2627/07 FILED BY THE DEFENDANTS.

EXT.P4 TRUE COPY OF THE ORDER DATED 17.11.06 IN I.A.2627/06 IN O.S.554/05 ON THE FILE OF THE COURT OF MUNSIFF, KOCHI.

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

W.P.C. NO. 3340 OF 2007

= = = = = = = = = = = = = = =

Dated this the 24th day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside the order of the learned Munsiff, Kochi in I.A.2627/06 in O.S.554/05. The grievance of the defendants in the case is that the Court below has not directed the property of the defendants to be measured. The suit is one for fixing the boundary. The plaintiff is claiming the property on the strength of a title deed.

2. Let the property be measured with reference to the document of the plaintiff and if it is not possible to fix the boundary between the properties by measuring the property of the plaintiff alone, the Commissioner be directed to submit a report to that effect and thereafter the Court to consider whether defendants' property also has to be measured for fixing the boundary in between the two properties.

3. Ordinarily, I would have straight away allowed the prayer to measure the property of the defendants but here the extent involved is so large and as it is lying in two different places it may not be correct or worthwhile to make an attempt in that behalf at the initial stage itself. Therefore, if the Commissioner reports before the Court that without measurement of the defendants' property a proper adjudication regarding the boundary dispute cannot be resolved, then the Court below has to consider and pass appropriate orders to measure the defendants' property as well.

With this observation, the writ petition is disposed of.

M.N. KRISHNAN, JUDGE.

ul/-